District Court
Washington, District of Columbia

James G. Mahorner, an individual and a member of the governed class,
P.O. Box 50555
Jacksonville Beach, FL
3240-0555,
904-249-0851

Civil Action No.
1:02CV01530
The Honorable
Reggie B. Walton

Plaintiff,

vs.

George W. Bush, Jr., as President of the United States of America, and individually,
1600 Pennsylvania Ave.
Washington, D.C.

and

PAUL H. O'NEILL, as Secretary of the Treasury of the United States of America, and individually,

Defendants. /

MOTION FOR EMERGENCY PRELIMINARY INJUNCTION

Plaintiff, **JAMES G. MAHORNER, *pro se***, hereby moves the court for a preliminary injunction, under the authority of Fed R Civ P Rule 65(a), enjoining Defendant, **GEORGE W. BUSH, JR.**, and all those in active concert or participation with said Defendant, from causing or engaging in further military action without a Congressional declaration of war, except in an immediate response to launched missiles or other imminent or occurring

attacks directed to the territory of this country, until a final hearing and determination of the merits in the above-entitled action.

Unless Defendant is restrained and enjoined by order of this court, Plaintiff, and others in the governed class, will suffer immediate and irreparable loss and damage through extensive nuclear radiation and biological defensive attacks against this nation by those nations that have suffered the unconstitutional act of the President acting like King George, by initiating war without declaration by Congress, as more fully described and set forth in the complaint filed herein. ("In most of these particulars, the power of the President will resemble equally that of the king of Great Britain [King George] and of the governor of New York. The most material points of differences are these: First, The President will have only the occasional command of such part of the militia of the nation as by legislative provision may be called into the actual service of the Union. The king of Great Britain and the governor of New York have at all times the entire command of all the militia within their several jurisdictions. In this article, therefore, the power of the President would be inferior to that of either the monarch or the governor. Secondly, the President is to be commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and admiral of the Confederacy, while that of the British king extends to the declaring of war and to raising and regulating of fleets and armies, all which, by the Constitution under consideration, would appertain to

the legislature." Hamilton). (A pre-war declaration of war was a requirement of international law at the time of the writing of the Constitution.)

Defendant's disdainful and unconstitutional initiation of war is motivated by political advantages received from such conduct and by the fact that Defendant, Bush, who has access to fall-out shelters, which include his own family, (Kennedy's family members were put in death squad fall-out shelters off the coast of Palm Beach County, Florida, during Condition Red and guarded by military from intrusion by the governed class attempts to save their own families), is immune to the potential massive radiation and biological response induced by the conduct.

As set forth in the complaint regarding Plaintiff's standing and the issue being justiciable, the authors, proponents, and ratifyers of the U.S. Constitution adopted the concept that if the tyranny of King George occurred in this country, and there was no resolution by the courts, then the doctrine of self-defense applied, which supported action by the governed class to remove the threat. ("If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self defense, which is paramount to all positive forms of government, and which against the usurpation of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state." Hamilton)

It is illogical for the issue to be unsolvable in a declaratory action when the only method remaining to obtain a judicial ruling is that some hypothetical attorney, in defense of a hypothetical assassin, a portion of whose family has been killed by a response from a foreign nation

to the unconstitutional action of a President and who killed such president to prevent a completion of a new threat of the same nature, asks from the court for an instruction to the jury that the initiating of war by a President without declaration of Congress was illegal, and that should the jury find that such action was a substantial threat to the Defendant, the jury should acquit, as such solution was guaranteed by the Constitution when there was no judicial or other solution quickly available.

Because of the imminent magnitude of the threat to the present magnitude of the threat for extensive and imminent harm to the governed class, this court is requested to accelerate the hearing on this cause by ordering simultaneous submission of briefs from each side within ten (10) days of the date of the order, and to provide for a hearing of fifteen (15) minutes to each side, within fifteen (15) days of the date of the order, with the parties notified by phone and by fax of the order.

This Motion is made on the additional ground that Plaintiff has no other adequate remedy at law.

Prior to issuance of the injunction prayed for herein, Plaintiff is ready, willing and able to execute a bond payable to Defendant, or to provide other security in such sum as this court deems proper for such costs and damages, if any, as may be incurred or suffered by any party found to have been wrongfully enjoined or retrained. **It is further submitted that when a woman's life is threatened and a preliminary injunction by protective order is to be issued, protecting against the threat to life is deemed so great that bonds are not customarily required.**

As will be shown in the brief, the Constitutional debate included it was inappropriate that the wealth and blood of the nation depend on the decision of one man.

Dated this 20th day of August, 2002.

/s/_____

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